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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Detention of international civil servants and their families: updated report by the Secretary-General

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INTRODUCTION

1. At its forty-sixth session the Commission on Human Rights had before it the updated report of the Secretary-General on the detention of international civil servants and their families (E/CN.4/1990/14), prepared pursuant to Commission resolution 1989/28 of 6 March 1989. It adopted resolution 1990/31 of 2 March 1990, entitled "Staff members of the United Nations and the specialized agencies in detention".

2. In that resolution the Commission requested the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of the United Nations staff members, experts and their families are fully respected and to submit to the Commission at its forty-seventh session an updated version of the report presented to it at its forty-fifth session on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will, including those cases which have been successfully settled since the presentation of the last report, as well as on the implementation of the measures referred to in paragraphs 3 and 4 of the present resolution. The present report is submitted to the Commission pursuant to that request.

3. At its forty-second session, the Sub-Commission considered the updated report (E/CN.4/Sub.2/1990/30) entitled "Protection of the human rights of United Nations staff members, experts and their families", prepared by Mrs. Mary C. Bautista pursuant to its resolution 1988/9 and 1989/30. The Sub-Commission adopted resolution 1990/20 in which it invited the Special Rapporteur to continue her study so as to submit it to the Sub-Commission at its forty-third session, a final version of the report as well as practical recommendations for the improvement of the protection of personnel of the United Nations system and their families, including experts and consultants. The Sub-Commission at the same session adopted decision 1990/120, by which it expressed its wish that at the commemoration of the forty-second anniversary of the Universal Declaration of Human Rights, to take place within the United Nations on 10 December 1990, this situation be described.

4. To that effect a roundtable with the participation of distinguished experts took place on that day, which focused on ways and means to put an end to infringements upon the security and independence of international civil servants and stressed that these violations weaken the very foundations of the United Nations.

5. In its resolution 44/186 of 19 December 1989 on respect for the privileges and immunities of United Nations officials, the General Assembly took note, with concern, of the report submitted by the Secretary-General (A/C.5/44/11), and of the developments indicated therein, in particular the significant number of new cases of arrest and detention and those regarding previously reported cases under that category. In the same resolution, the General Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, as well as the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions. The Assembly urged the Secretary-General to give priority to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

6. Subsequently, the Secretary-General submitted to the forty-fifth session of the General Assembly his report on "Personal questions: respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations" (A/C.5/45/10). The Assembly also had before it a note by the Secretary-General containing the views of the staff representatives of the United Nations Secretariat (A/C.5/45/19). Information from these two documents is reflected in the present report. The General Assembly at its forty-fifth session adopted a resolution in which it, inter alia, called upon those Member States holding under arrest or detention officials of the United Nations and the specialized agencies and related organizations to enable the Secretary-General or the executive head of the organization concerned to exercise fully the right of functional protection inherent in the relevant multilateral conventions and bilateral agreements, particularly with respect to immediate access to detained staff members.

I. RECENT DEVELOPMENTS

Statement by the Secretary-General

7. In a statement (SCB/1028) made by the Secretary-General in connection with Headquarters Staff Day on 7 September 1990, the Secretary-General, inter alia, raised the issue of the protection and treatment of staff members. He affirmed his continued commitment to securing the release of detained colleagues because the Organization's greatest asset was its staff.

8. On the occasion of the opening of an exhibit on security and independence of the international civil service on 7 November 1990, the Secretary-General stressed that the safety and security of United Nations staff was of the utmost importance. He stated that at the time when the Organization is being called upon to undertake new tasks for the promotion of peace, it was essential to be able to carry out duties with the full assurance that "our legal and human rights" will be respected.

9. This in itself constitutes a recognition of the problem and is in line with the position taken by the Commission and the Sub-Commission over the last 10 years. The Secretary-General called on Governments in particular to co-operate with the Organization regarding specific cases, to promptly provide full information on the case in question, to adhere to basic international standards concerning the treatment of detainees and to allow the United Nations medical service to visit them.

Statement by the Legal Counsel of the United Nations

10. In his statement before the Fifth Committee on 24 October 1990, the Legal Counsel of the United Nations declared that peace-keeping and peace-building activities, as well as other activities of the Organization in economic, environmental and other fields, had expanded substantially.

11. One of the consequences of such developments was the fact that more and more staff members participated in missions away from the headquarters of their organizations, helping to bring to life the growing number of assignments entrusted to the organizations of the United Nations system by their Member States. The ability of these staff members to perform their duties in favourable conditions was an important factor, which sometimes might play a crucial role in the success of the whole operation. For this reason, the question of respect for privileges and immunities of officials had today acquired even greater significance. In this regard the Legal Counsel reiterated the conclusion arrived at in his last year's presentation to the Fifth Committee, that it was even more imperative now that the privileges and immunities of international officials performing functions in connection with activities of their organizations were duly respected. It was worth mentioning that the General Assembly at its last session once again emphasized the importance of scrupulous respect for the privileges and immunities of officials and called upon all Member States impeding officials of the United Nations, specialized agencies and related organizations in the proper discharge of their duties to review the cases mentioned in the Secretary-General's report and to co-ordinate efforts with the Secretary-General or the executive head of the organization concerned to resolve every case with all due speed. It went, without saying, at the same time, that in performing their functions the staff of the United Nations, of

the specialized agencies and of other related organizations was under a duty to refrain from any action which might reflect on their position as international officials responsible only to their organization.

12. The reports placed in the forefront the problem of arrest, detention, abduction and loss of life of officials, which because of the seriousness of its nature had continued to be a matter of gravest concern to the Secretary-General and the respective executive heads of the organizations concerned. The General Assembly in its resolution on this subject last year took note with deep concern of the high number of cases of arrest and detention and deplored the increase in the number of cases in which the safety, functioning and well-being of officials had been placed in jeopardy. It must regretfully be noted that despite all efforts which were undertaken to reverse this negative trend, the number of both pending and new cases of arrest and detention of officials remained very high during the reporting period. As in the past, most of these cases related to the officials of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), but some other agencies referred to in the report had also experienced difficulties in this regard. The alarming fact was that not only staff members of UNRWA and the United Nations Truce Supervision Organization in Palestine (UNTSO), but also members of their families, in particular children, had been subject to arrest or detention. Substantial efforts had been made to intervene with the appropriate authorities, but on many occasions difficulties were experienced in ascertaining all the relevant facts due to the short duration of many of those arrests.

13. The Legal Counsel further stated that, although all cases of arrest, detention, abduction and loss of life referred to in the report, deserved equal attention and concern, he drew special attention to some that were particularly disquieting. In this context, the Legal Counsel mentioned the case of Ms Ouenet Mebrahtu, a staff member of the World Health Organization (WHO); Ms. Mebrahtu was arrested on 8 June 1989 by the Ethiopian Security Services. Despite all efforts undertaken by the United Nations and WHO to release her, she continued to be held in custody. No formal explanations had been given by the Ethiopian authorities for her arrest. Three other cases he referred to relate to locally recruited staff members of the Food and Agriculture Organization of the United Nations (FAO) of Afghan nationality: Mr. Danlat Mir, Mr. Saleem Hairan and Mr. Mohammed Omar. All three of them were first arrested and then, despite the démarches made by the UNDP office in Kabul, were forcefully conscripted into military service. Subsequent efforts to secure their release had been without success.

14. Furthermore, the Legal Counsel felt obliged to refer to serious developments which have taken place recently in Rwanda. On 5 and 7 October 1990 the Rwanda military forces arrested five staff members employed by the United Nations Children's Fund (UNICEF), The United Nations Development Programme (UNDP) and the International Labour Organisation (ILO). Following unsuccessful attempts on the part of the resident-designated official to secure the release of the staff members, the Secretary-General on 18 October 1990 sent a note verbale to the Permanent Representative of Rwanda to the United Nations requesting speedy release of the arrested staff members.

15. It should, however, be noted that continuous efforts undertaken by the Secretary-General, executive heads of other organizations and designated officials had produced some positive results. Long-standing cases such as

that of Mrs. T. Jawabri, an FAO staff member who had been arrested in December 1982, and of Mr. Sami Izza, a staff member of the United Nations Disengagement Observer Force (UNDOF), who had been detained since 6 October 1985, were finally resolved.

16. With reference to measures and proposals in furtherance of the safety and the security of officials, another issue raised by the World Food Programme in the present report deserved special attention. It concerned measures to be undertaken by an organization to cover risks to its personnel in high-risk areas. The practice of WFP in this regard might serve as an example of a possible solution.

17. In conclusion, the Legal Counsel stated that respect for the privileges and immunities of officials was one of the paramount conditions guaranteeing effective exercise of the responsibilities entrusted by Member States with the United Nations and other organizations of the United Nations system.

18. In a second intervention to the Fifth Committee on 14 November 1990 (A/C.5/45/SR.28), the Legal Counsel expressed gratitude to all the delegates for the declaration of support for the Secretary-General in his effort to ensure full respect for the privileges and immunities of officials of the United Nations, specialized agencies and related organizations.

19. He continued by stating that the annual discussions which were held in this Committee on the question of respect for the privileges and immunities of officials and the conclusions drawn from them, provided a unique opportunity to seek further improvement of the conditions which were necessary in order to ensure effective operational activities of the organizations of the United Nations system. Today, the issue of respect for privileges and immunities of officials acquired paramount importance as never before. As pointed out in his introductory statement on 24 October 1990, and, confirmed by many delegations, at a time when the organizations of the United Nations system were called upon to undertake new tasks which can be somewhat complicated and sometimes also very delicate, respect for the privileges and immunities of their personnel became even more important. It was therefore essential that their officials were able to carry out their duties with the utmost assurance that their rights were duly respected. In this regard, the support expressed by the General Assembly through its annual resolutions continued to be an indispensable element in the efforts of the Secretary-General and the respective executive heads of the organizations of the United Nations system in order to secure full observance of the privileges and immunities of officials.

20. The Legal Counsel said that the Secretary-General was particularly grateful for the concern expressed in the Fifth Committee for the alarmingly high number of causes of arrest, detention and abduction of officials during the reporting period and for the appeal made to those who were responsible for the illegal detention of officials to immediately release the detained staff members. For their part, as emphasized in the report, the Secretary-General and the respective executive heads of the organizations concerned would continue to follow up meticulously all cases of arrest and detention of officials in order to ensure that no staff member was arrested and detained for reasons related to their official duty. In this connection it was a fundamental necessity that the Secretary-General and his executive heads of the organizations of the United Nations system be promptly informed of the

reasons for arrest and detention and that access be given to the staff member concerned. Consequently, we were particularly concerned about cases of arrest for unspecified reasons and unlimited duration because in such situations we were for all practical purposes barred from determining whether such arrests were related to official activities or not.

21. In this context, the Legal Counsel was pleased to inform the Fifth Committee that since his last statement before the Committee, most of the staff members employed by UNICEF, UNDP and ILO who had been detained in Rwanda during the last month had been released and would soon be resuming their functions.

22. Finally, the Legal Counsel thanked the Government of Romania for its eagerness to fully accept the advisory opinion of the International Court of Justice concerning applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations.

23. Referring to the statement of the delegate of Afghanistan, who confirmed that several locally-recruited staff members of Afghan nationality had been conscripted into the military service on the basis of the relevant law of the Republic of Afghanistan, the Legal Counsel drew attention to sub-paragraph (c) of section 17 of the Convention on the Privileges and Immunities of the United Nations to which Afghanistan was a party and which provided that officials of the United Nations shall be immune from national service obligations.

24. The Legal Counsel further informed the Fifth Committee that the Permanent Mission of Senegal to the United Nations had addressed a note to the Secretariat referring to paragraphs 22 and 23 of annex II of the Secretary-General's report (A/C.5/45/10) on respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations concerning three cases of arrest of locally recruited staff members of ILO and the World Food Programme (WFP) in Senegal. 1/ The contents of the note had been transmitted to ILO and WFP and, as far as the United Nations was concerned, he repeated that all staff members employed under the Staff Rules and Staff Regulations of the United Nations were "officials" within the meaning of the Convention on the Privileges and Immunities of the United Nations regardless of nationality, the place where they were recruited, their category or grade.

25. Finally, the Legal Counsel said that the additional information provided by the representative of Ethiopia with regard to the case of Ms. Guenet Mebrahtu had been transmitted to the World Health Organization (WHO), of which she was a staff member. It should be emphasized that Ms. Mebrahtu had been imprisoned for more than a year with only rather general allegations brought against her, and for that reason he repeated the appeal for her release that had been made on several occasions by WHO and the United Nations.

Statement by the Under-Secretary-General for Human Rights

26. In his introductory statement to item 10 of the agenda of the forty-second session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1990/SR.21, paras. 1 and 6) entitled "The administration of justice and the human rights of detainees", the

Under-Secretary-General for Human Rights stated that it was incumbent upon the Commission on Human Rights and the Sub-Commission to monitor the situation in various countries where those fundamental rights might be denied or violated. In that respect the Sub-Commission played an important role in the United Nations system by drawing attention to abuses that ought to be considered by the Commission and the General Assembly. It also took the initiative in the preparation of rules relating to specific issues, such as the death penalty or the principles to be observed for the protection of detainees or prisoners. The Charter required the Organization's staff to remain impartial and objective in the performance of their duties, but if they were to be able to do their work properly it was also necessary that their fundamental rights and their privileges and immunities be respected in all circumstances. There was, however, an alarming number of reports of violations of the privileges and immunities or fundamental rights of staff members, experts and even members of their families. The Secretary-General was intensifying his efforts to ensure that those rights were protected in all countries. Some of the authorities implicated had made an encouraging response but in most cases, unfortunately, the situation remained unchanged. The problem was one of great concern to the Sub-Commission, which had entrusted Mrs. Bautista with the preparation of a report on the subject (E/CN.4/Sub.2/1990/30). The case of Mr. Dumitru Mazilu, Special Rapporteur for human rights and youth, had made a particularly strong impression on the members of the Sub-Commission.

Report of the Secretary-General to the General Assembly

27. The Secretary-General, in his report (A/C.5/45/10), covered the period 1 July 1989 to 30 June 1990 and focused, inter alia, on cases involving arrest, detention and abduction of officials and other matters involving the status, privileges and immunities of officials. The report included a consolidated list (annex I) of 70 staff members under arrest and detention, missing or executed and with respect to whom the United Nations and the specialized agencies and related organizations have been unable to exercise fully their right to protection. The report also contained information (annex II) on this subject submitted by UNRWA, UNICEF, UNTSO, FAO, the International Atomic Energy Agency (IAEA), ILO and WFP. As in previous years, the report was based on information obtained from United Nations subsidiary organs, offices or commissions as well as specialized agencies and related organizations. The report of the Secretary-General also contained information on restrictions on official and private travel of officials of the United Nations, the specialized agencies and related organizations, and on taxation of officials.

28. The Secretary-General stated that the Middle East continued to be an area of prime concern with the most cases of arrest, detention and abduction of officials. The number of cases of arrest and detention without charge or trial of staff members of UNRWA remained very high. During the reporting period, 160 UNRWA staff members had been arrested or detained, of whom 11 were detained more than once. In no case did UNRWA receive adequate and timely information on the reasons for the arrest or detention despite requests to the appropriate authorities. Of 160 staff, 100 were arrested or detained and released without charge or trial, including three held by militia groups in Lebanon. Eight were charged, tried and sentenced to various terms of imprisonment. One staff member was deported. The remaining 51 were still in detention as at 30 June 1990, as follows:

Lebanon (Syrian armed forces)	1
Occupied Gaza Strip	31
Occupied West Bank	18
Syrian Arab Republic	1
	51

29. An especially grave phenomenon is the recurrent arrest and imprisonment of local staff members' children. The children of local Palestinian staff members have been arrested for breaches of the peace under Israeli security legislation, which gives the army and the police wider powers of arrest and detention without trial and access than are accepted as providing procedural justice in most legal systems during peacetime. UNTSO is attempting to establish a procedural arrangement with the Israeli authorities for quick access through one Israeli authority.

30. In each case UNTSO takes up the matter with the Israeli Defence Force Liaison Officer, requesting information as to the circumstances of the arrest, the charge, the law applicable, the place of detention and other questions specified under administrative instruction ST/AI/299. In every case UNTSO is told that the arrest has been made according to law but details are invariably unclear until such time as the child is brought before a court, when UNTSO has made available a security officer to attend with the staff member and report on proceedings. The sons of three local staff members are currently under arrest and procedures and information concerning them under ST/AI/299 have not been forthcoming in reasonable time. They are Ussama Bassa, Ibrahim Mussa Bkeirat and Amer Mohammad Hammad.

31. The report of the Secretary-General referred to several cases involving locally-recruited staff members working for FAO.

Syrian Arab Republic

32. Mrs. T. Jawabri, a locally-recruited former staff member of Syrian nationality of FAO, assigned as a G-1 cleaner to the FAO office in Damascus, was separated from the Organization on 31 December 1983 at the end of her fixed-term appointment. On 27 December 1982, the FAO office was informed that her husband had been arrested by the Syrian authorities, reportedly without being given any reasons. On 29 December 1982, she herself was arrested at her home by the Syrian security services. Her relatives informed the FAO office the following day. Subsequent to this, several unsuccessful attempts were made by the force commander of UNDOF and the FAO representative to obtain from the Ministry of Foreign Affairs information on the reasons for the arrest and detention of Mrs. Jawabri and her husband and the location of their detention. They also requested access to them. However, on 31 May 1983, the FAO representative was informed unofficially by an officer of the Ministry that Mrs. Jawabri was being held on a charge of having committed acts against national security, in that "she had been a correspondent between the reactionary rightist movement in Iraq and a similar organization in Syria", and her husband was accused of having assisted her in this regard. Nevertheless, the organization has no information on whether the couple were formally charged. In 1986 a family member informed the organization that Mrs. Jawabri was being held at Katana women's prison, where she was allowed to receive visits once a week.

33. Mrs. Jawabri was released from custody on 20 January 1990, without any restrictions being placed on her.

Afghanistan

34. Mr. Daulat Mir, a locally-recruited FAO staff member of Afghan nationality assigned to a project in Afghanistan as a G-2 driver, was taken from his home on 28 August 1984 by local security authorities. He was reportedly arrested at his home on 28 August 1984 and taken to the State Security Headquarters at Shish Darall and subsequently to the Prime Minister's Office, where he was told that "somebody had mentioned [his] name among the culprits". He appeared before a revolutionary court on three occasions: on 10 December 1984, on 1 July 1985 and on 18 November 1986. Immediately thereafter he was called to military service.

35. Shortly after his arrest, several attempts had been made to obtain from the Ministry of Foreign Affairs information on the reasons for his arrest and detention, as well as authorization to visit him in his place of detention. By a note verbale dated 11 September 1984, the Ministry confirmed that Mr. Daulat Mir had been arrested and indicated that the reason was "suspicion of [his] being connected to counter-revolutionary bands", but failed to mention whether and when access would be granted. Access was granted to the FAO representative only in December 1984. The UNDP resident representative sought exemption from military service on behalf of Mr. Daulat Mir. The latter never resumed his duties with the organization.

36. Mr. Saleem Hairan, a locally-recruited FAO staff member of Afghan nationality assigned to a project in his country as a driver, was picked up by Afghan Government army authorities on 27 January 1988 for compulsory service with them, in spite of his holding a valid exemption card. Despite the démarche made by the UNDP office in Kabul seeking exemption from such military service on behalf of Mr. Saleem Hairan, the latter never resumed his duties with the organization.

37. Mr. Mohammad Omar, a locally-recruited G-1 messenger of Afghan citizenship, was taken away by personnel believed to be from the Ministry of State Security at approximately 7 a.m. on 17 May 1989, having left his residence in Karte Char (house No. UN-2067) with his daughter on the way to the FAO office in the UNDP compound. On the same day a note verbale was sent to the Ministry of Foreign Affairs of the Republic of Afghanistan seeking the urgent assistance of the Ministry in determining and advising FAO on the whereabouts of Mr. Omar and, if he was in detention, the nature of the charge, if any, made against him. A further note verbale was sent on 21 May 1989 asking again for assistance in establishing the whereabouts of Mr. Omar. The Ministry of Foreign Affairs first advised that Mr. Omar would be exempt from service and released but then informed the organization that he had volunteered to serve in the army and therefore would not return. The Ministry declined to put this information in writing. Further efforts were made to secure his interim release, but without success. Mr. Omar was granted special leave without pay for the duration of the military service.

Zambia

38. Mr. Abel Nyirenda, a locally-recruited national of Zambia, assigned as a G-1 watchman to project RAF 85/015, Lusaka, was arrested on 26 March 1989 by the police on suspicion of theft of a radio. Shortly thereafter he was released without being charged. Reportedly he had been severely beaten by the police while in police custody and on 29 April 1989 died of the consequences (internal bleeding) after five weeks of illness. Apart from the staff member's own statement, no further evidence on his ill-treatment was available; the Zambian authorities were not prepared to allow an autopsy. Attempts by the organization to obtain further information regarding the circumstances of the staff member's death have been of no avail.

39. As already explained in our previous reports, FAO considers that, given the diversity of the circumstances surrounding incidents in which the organization may be called upon to intervene in order to ensure the security of its staff and respect for privileges and immunities, it is still preferable to maintain a flexible approach.

International Atomic Energy Agency

40. Mr. Jiang Yue, an Agency staff member in the Division of Languages who holds a fixed-term contract and is a national of China, did not report back on duty from an authorized home leave. By a letter of 2 September 1989 the staff member informed the Agency that he was unable to resume his duties as the Chinese authorities had not granted him the necessary certificate to leave the country. Several approaches were made to the relevant Chinese authorities by the Director-General of IAEA, with no conclusive results. By a letter of 11 July 1990, the staff member was offered an extension of his contract for a further period of one year. The IAEA secretariat is continuing its contacts with both the Chinese authorities and the staff member in the hope of reaching a satisfactory solution.

World Food Programme

Pakistan

41. A WFP field assistant, Mr. Abdul Fattah, disappeared on 3 September 1989 in Peshawar. Mr. Fattah had reportedly been abducted. The investigation conducted by Pakistani officials has remained fruitless to date.

Uganda

42. Three WFP staff members were ambushed while in a vehicle south of Moroto on 15 March 1990; the driver, Mr. Angello Arikwang, was killed and a secretary, Ms. Lily Nakiru, suffered bullet wounds. The third passenger was unhurt. The investigation conducted by the local authorities failed to identify the attackers.

Sudan

43. In December 1989 a light plane was shot down above southern Sudan, killing Mr. Frazer Fedit, a WFP staff member on local temporary contract. In the same area, WFP food convoys were reportedly ambushed by armed rebels and

in September 1989, a WFP project officer, Mr. Gerard Viguie, was fired upon but escaped injury. The driver of the vehicle, who was injured, was not a WFP staff member. The identity of the attackers was never established.

Somalia

44. A driver for WFP, Mr. Ahmed Mohamed Ali, was arrested and detained on approximately 25 May 1990 by the Somali National Security Service for no apparent reason. That was the fourth time that Mr. Ali had been arrested by the Security Service within the previous 12 months. Despite the efforts of the UNDP/WFP representative, the driver has not yet been released.

45. The Secretary-General regrets that once again he is obliged to report that the number of cases involving arrest and detention remains very high and that there is little indication that this grave situation may begin to improve. It is hoped that discussion of the present report, submitted by the Secretary-General on behalf of the Administrative Co-ordination Committee (ACC), will facilitate the search for measures that will eventually help to reverse the current trend. To this end the Secretary-General is determined to continue to co-operate with Member States.

Information provided by staff representatives

46. The staff representatives of the United Nations Secretariat presented information on the independence of the International Civil Service to the Assembly in the above-mentioned note (A/C.5/45/19, chapter IB). That information included a list of 144 staff members whose rights had been violated by 16 States Members of the United Nations. It was based upon information provided by the representatives of the Secretary-General and by other sources.

47. The staff has requested the Secretary-General to strengthen his Task Force on the Independence and Security of the International Civil Service through the appointment of a high-level chairman. The Task Force has not had the impact that it should have had in monitoring and following up on all cases of arrest and detention. The reporting of such cases by the administration is lax and unresponsive.

48. The staff representatives have made repeated requests for the establishment of a United Nations medical team that would periodically visit all United Nations staff being held under any form of detention. The costs of establishing such a team should be minimal.

Discussion in the Fifth Committee of the report of the Secretary-General contained in A/C.5/45/10 2/

49. In the debate on item 126 entitled "Personnel questions", the representative of Egypt stressed the importance of the question of respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations, and of the report of the Secretary-General on the subject. Recalling General Assembly decision 44/440, he said that it was important that the report should be made available to Member States well in advance in order to enable delegations to become familiar with its contents.

II. CASES RECENTLY CLARIFIED

50. The efforts undertaken by the Secretary-General, the respective executive heads of the organizations concerned, designated officials and officials in the field have resulted in the release of many staff members previously reported as being under arrest or detention. They have also contributed to a number of positive developments with regard to some cases in which the organizations have not been able in the past to exercise their right of protection of staff members. Mrs. T. Jawabri, a locally-recruited staff member of FAO, who had been arrested on 29 December 1982 by the Syrian security service and since then detained without trial, was released from custody on 20 January 1990. Mr. Sami Izza, a staff member of UNDOF, detained in the Syrian Arab Republic since 6 October 1985, was released on 16 June 1990. In the occupied Gaza Strip, Mr. Ahmad Hasan Ismail Zaggout, arrested on 9 September 1987, and Mr. Said Abdala Abu Qamar, arrested on 22 November 1987, both UNRWA staff members, were released on 21 June and 22 August 1989, respectively. In the occupied West Bank, Mr. Mohammad Imad Abdallah Abdul Kahman Jubr, staff member of UNRWA, arrested on 27 November 1987, was released on 26 November 1989. In Lebanon, Mr. Fayez Freiji, who had been detained by Syrian armed forces since 27 November 1986, and Mr. Mohammad Ahmad Miri, who had been detained by militias or unknown elements since 10 February 1987, both staff members of UNRWA, were also released. Of those arrested during the reporting period, the following staff members of UNRWA were consequently released without charge or trial: 2 in Jordan, 39 in the occupied Gaza Strip, 53 in the occupied West Bank, 6 in Lebanon. The Permanent Mission of Senegal at Geneva informed the Centre for Human Rights by a note verbale dated 12 February 1991 that the three staff members of Senegalese nationality of the International Labour Organisation and the World Food Programme, Messrs. Ousmane Diassy, Youssouph Badiane and Magloire Badiane, who were in detention since June 1990, were released in January 1991.

51. The Secretary-General regrets, however, to report a lack of progress and even negative developments in respect of some previously reported cases. Despite all actions taken by the Secretary-General and officials of WHO, Ms. Guenet Mabrahtu, a WHO staff member, arrested by the Ethiopian security service on 8 June 1989, is still being held in custody. No formal explanations have been given for her arrest. A team comprised of the two WHO officials and two officials of the Economic Commission for Africa (ECA), including a medical doctor, visited Mrs. Mebrahtu in prison. The United Nations and WHO continue to pursue this case closely. It should be noted with deep regret that at the time of an attempted robbery Mr. Angello Arikwang, a WFP staff member, was killed in Uganda (see annex II, para. 25 of the report of the Secretary-General). The efforts undertaken by the United Nations and FAO in obtaining the release and exemption from military service of Mr. Daulat Mir and Mr. Mohammed Omar have failed so far. Both staff members were first detained and then conscripted into military service in Afghanistan. There has been no further information on the seven staff members of UNRWA listed in last year's report as being detained in the Syrian Arab Republic. There also has been no further information regarding six of the seven staff members detained in Lebanon by the Syrian armed forces, nor of four of the five staff members listed in last year's report as detained by militias or unknown elements in Lebanon.

III. OTHER MATTERS INVOLVING THE STATUS, PRIVILEGES AND IMMUNITIES OF OFFICIALS

52. On 24 May 1989 the Economic and Social Council adopted resolution 1989/75, requesting the International Court of Justice to give an advisory opinion on the legal question of the applicability of article VI, section 22, of the 1946 Convention on the Privileges and Immunities of the United Nations in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

53. On 15 December 1989, in response to that request, the International Court of Justice unanimously delivered an advisory opinion on the applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations. The Court concluded, inter alia, in paragraph 52 of its advisory opinion, that persons (other than United Nations officials) to whom a mission has been entrusted by the Organization, i.e., experts on mission, were entitled to enjoy the privileges and immunities provided for in article VI, section 22, of the 1946 Convention with a view to the independent exercise of their functions. According to the Court, during the whole period of such missions, experts enjoy these functional privileges and immunities, whether or not they travel. The Court also took the view that such privileges and immunities may be invoked as against the State of nationality or of residence unless a reservation to section 22 of the 1946 Convention, has been validly made by that State. With regard to the particular case of Mr. Mazilu, the Court concluded that he continued to have the status of Special Rapporteur, and as a consequence must be regarded as an expert on mission within the meaning of section 22 of the 1946 Convention, and that that section was accordingly applicable in the case of Mr. Mazilu.

54. In connection with the aforementioned advisory opinion, the Economic and Social Council on 25 May 1990 adopted, without a vote, resolution 1990/43, by which it welcomed the opinion of the Court to the effect that rapporteurs and special rapporteurs of the Sub-Commission must be regarded as experts on mission within the meaning of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations.

Notes

1/ For further developments, see paragraph 50 of the present report.

2/ See A/C.5/45/SR.15 and 28.

Annex

CONSOLIDATED LIST */ OF STAFF MEMBERS UNDER ARREST AND DETENTION OR MISSING AND WITH RESPECT TO WHOM THE UNITED NATIONS AND THE SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS HAVE BEEN UNABLE TO EXERCISE FULLY THEIR RIGHT TO PROTECTION

Name	Agency	Place and date of incident
Mr. Abdala Daker Hayatli	UNRWA	Missing in the Syrian Arab Republic since 20 April 1980
Mr. Izzedine Hussein Abu Kreish	"	Detained in the Syrian Arab Republic since 11 September 1980
Mr. Tesfamariam Zeggae	ECA	Detained in Ethiopia since 2 March 1982
Mr. Ali Said Shihabi	UNRWA	Detained in the Syrian Arab Republic since 31 March 1982
Mr. Mahmoud Hussein Ahmad	"	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements
Mr. Mohammad Ali Sabbah	"	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements
Mr. Daulat Mir	FAO	Detained on 28 August 1984 and subsequently conscripted into military service in Afghanistan
Mr. Alec Collett	UNRWA	Detained in Lebanon by militias or unknown elements since 25 March 1985
Mr. Abdalla Issa	"	Detained in the Syrian Arab Republic since 6 October 1985
Mr. Zaki Hamadeh	"	Detained in Lebanon by Syrian armed forces since 18 March 1986
Mr. Mohammad Kteileh	"	Detained in the Syrian Arab Republic since 24 March 1986
Mr. Fadel Mohammad Kheir Salman	"	Detained in the Syrian Arab Republic since 1 April 1986

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*/ In chronological order.

Name	Agency	Place and date of incident
Mr. Yaser Hassan Jalbout	UNRWA	Detained in the Syrian Arab Republic since 5 April 1986
Mr. Fayyad Mohammad Freiji	"	Detained in Lebanon by Syrian armed forces since 27 November 1986
Mr. Mohammad Mustafa El-Hajj Ali	"	Missing in Lebanon since 28 November 1986. Reportedly detained by militias or unknown elements
Mr. Samir Ishkuntana	"	Detained in Lebanon by Syrian armed forces since 7 April 1987
Mr. Mahmoud Hasan Ismail Zaggout	"	Detained in the occupied Gaza Strip since 30 August 1987
Mr. Sunder Thapa	FAO	Detained in Nepal since 12 January 1988
Mr. Rifa'at Ayoub	UNRWA	Detained in Lebanon by Syrian armed forces since 14 January 1988
Mr. Marwan Izzat Qassem Ali	"	Detained in the occupied Gaza Strip since 25 January 1988
Mr. Saleem Hairan	FAO	Detained and conscripted on 27 January 1988 into military service in Afghanistan
Lieutenant-Colonel William Richard Higgins	UNTSO	Abducted in Lebanon by unknown elements on 17 February 1988
Mr. Ibrahim Fawzi El-Kurd	UNRWA	Detained in the occupied Gaza Strip since 17 April 1988
Mrs. Zainab Aw Jama Adan	WFP	Missing in Somalia since 4 June 1988
Mr. Yusef Ismail Shaban	UNRWA	Detained in the occupied West Bank since 8 August 1988
Mr. Husain Ibrahim Abu Nar	"	Detained in the occupied Gaza Strip since 15 August 1988
Mr. Abdul Fattah Hasan Dukhan	"	Detained in the occipied Gaza Strip since 18 September 1988
Mr. Ahmad Juma Arabi	"	Detained in Lebanon since 31 October 1988 by Syrian armed forces

Name	Agency	Place and date of incident
Mr. Fayez Nour Salha	UNRWA	Detained in the occupied Gaza Strip since 21 November 1988
Mr. Marwan Ismail Hudeib	"	Detained in the occupied West Bank since 21 December 1988
Mr. Ramadan Tawfiq Dahalan	"	Detained in the occupied Gaza Strip since 24 January 1989
Mr. Anwar Khalil Maliha	"	Detained in the occupied Gaza Strip since 2 February 1989
Mr. Majed Mohammad Abu El Auf	"	Detained in the occupied Gaza Strip since 26 February 1989
Mr. Majed Kanj	"	Detained in Lebanon by Syrian armed forces since 27 February 1989
Mr. Mohammed Omar	FAO	Detained and conscripted on 17 May 1989 into military service in Afghanistan
Mr. Nabil Ibrahim El Sawalhi	UNRWA	Detained in the occupied Gaza Strip since 18 May 1989
Mr. Ismail Hazan Abu Shanab	"	Detained in the occupied Gaza Strip since 30 May 1989
Mr. Awni Mohammad Abu Saif	"	Detained in the occupied Gaza Strip since 31 May 1989
Mr. Hasan Ibrahim Muzayyen	"	Detained in the occupied Gaza Strip since 31 May 1989
Mr. Munir Mohammad El Masawabi	"	Detained in the occupied Gaza Strip since 31 May 1989
Mr. Mohammad Ibrahim Noufal	"	Detained in the occupied Gaza Strip since 3 June 1989
Ms. Guenet Mebrahtu	WHO	Detained in Ethiopia since 8 June 1989
Mr. Anwar Ali Al Barawi	UNRWA	Detained in the occupied Gaza Strip since 21 June 1989
Mr. Mahmoud Ahmad Abu Zayeda	"	Detained in the occupied Gaza Strip since 31 July 1989
Mr. Nawwaf Jamil Awwad	"	Detained in the occupied Gaza Strip since 1 August 1989

Name	Agency	Place and date of incident
Mr. Ibrahim Saleh El Saiqali	UNRWA	Detained in the occupied Gaza Strip since 1 August 1989
Mr. Dawoud Sulaiman El Mudallal	"	Detained in the occupied Gaza Strip since 2 August 1989
Mr. Jamal Abdala Abu Zubaida	"	Detained in the occupied Gaza Strip since 3 August 1989
Mr. Ali Saleh Darwish	"	Detained in the occupied Gaza Strip since 7 August 1989
Mr. Mohammad Abdul Rabbu Abu El Kas	"	Detained in the occupied Gaza Strip since 17 August 1989
Mr. Abdul Fattah	WFP	Abducted in Pakistan by unknown elements on 3 September 1989
Mr. Abdul Rahman Nayef El Slaibi	UNRWA	Detained in the occupied Gaza Strip since 10 September 1989
Mr. Salman Ahmad Abu Aql	"	Detained in the occupied Gaza Strip since 12 September 1989
Mr. Nayef Al Araj	"	Detained in Lebanon by Syrian armed forces since 18 September 1989
Mr. Said Mahmoud El Aila	"	Detained in the occupied Gaza Strip since 25 September 1989
Mr. Khaled Abdul Rahman Matar	"	Detained in the occupied Gaza Strip since 21 November 1989
Mr. Jamil Yusuf Ulayyan	"	Detained in the occupied Gaza Strip since 3 December 1989
Mr. Shawkat Abdul R. Abu Saifya	"	Detained in the occupied Gaza Strip since 17 December 1989
Mr. Hafez Mahmoud El Sharif	"	Detained in the occupied Gaza Strip since 18 December 1989
Mr. Fathi Samih Abu Qamar	"	Detained in the occupied Gaza Strip since 9 January 1990
Mr. Akram Saed Eddin Dukmaq	"	Detained in the occupied West Bank since 16 January 1990
Mr. Mohammad Abbas Hassouna	"	Detained in the occupied Gaza Strip since 17 January 1990

Name	Agency	Place and date of incident
Mr. Salem Sulaiman Abu Madi	UNRWA	Detained in the occupied Gaza Strip since 22 January 1990
Mr. Hasan Juma Awad	"	Detained in the occupied Gaza Strip since 22 January 1990
Mr. Imad Mohammad Abu Aukal	"	Detained in the occupied Gaza Strip since 23 January 1990
Mr. Hatem Roubin El Jaish	"	Detained in the occupied Gaza Strip since 14 February 1990
Mr. Taysir Abdul Fattah Eid	"	Detained in the occupied Gaza Strip since 26 February 1990
Mr. Harbi Mohammad Toumalieh	"	Detained in the occupied West Bank since 27 February 1990
Mr. Khaled Ali O. Seifi	"	Detained in the occupied West Bank since 5 March 1990
Mr. Imad Arafat Abu Libdeh	"	Detained in the occupied West Bank since 7 March 1990
Mr. Numan Ali El Madhoun	"	Detained in the occupied Gaza Strip since 12 March 1990
Mr. Niaz Farah Mohammad Mazazaa	"	Detained in the occupied West Bank since 13 March 1990
Mr. Hani Ali Mohammad Beydoun	"	Detained in the occupied West Bank since 20 March 1990
Mr. Ahmad Ramadan Mteir	"	Detained in the occupied West Bank since 24 March 1990
Mr. Suhail Said El Hasheem	"	Detained in the occupied Gaza Strip since 30 March 1990
Mr. Bassem Nihad Ibrahim Jarrar	"	Detained in the occupied West Bank since 3 April 1990
Mr. Jamal Darwish El Madhoun	"	Detained in the occupied Gaza Strip since 8 April 1990
Mr. Basem Yusef El Fadi	"	Detained in the occupied Gaza Strip since 21 April 1990
Mr. Jamal Mohammad Miqdad	"	Detained in the occupied Gaza Strip since 2 May 1990

Name	Agency	Place and date of incident
Mr. Riyad Abdul Rahman Matar	UNRWA	Detained in the occupied Gaza Strip since 3 May 1990
Mr. Taysir Abdul Aziz Abu Fanouna	"	Detained in the occupied Gaza Strip since 9 May 1990
Mr. Basima Farouq Odeh Yacoub	"	Detained in the occupied West Bank since 9 May 1990
Mr. Adnan Mohammad Ahmad Hammash	"	Detained in the occupied West Bank since 10 May 1990
Mr. Nariman Ribhi Rashid Ilayyan	"	Detained in the occupied West Bank since 10 May 1990
Mr. Yahya Hasan Najjar	"	Detained in the occupied West Bank since 11 May 1990
Mr. Ahmed Mohammad Hamdan	"	Detained in the occupied Gaza Strip since 13 May 1990
Mr. Majed Salti	"	Detained in the Syrian Arab Republic since 17 May 1990
Mr. Mahmoud Husain Jarbu	"	Detained in the occupied Gaza Strip since 23 May 1990
Mr. Naser Mohammad Jibril Zubeidi	"	Detained in the occupied West Bank since 24 May 1990
Mr. Majed Ahmad El Malfouh	"	Detained in the occupied Gaza Strip since 24 May 1990
Mr. Ahmed Mohamed Ali	WFP	Detained in Somalia by the Somali National Security Service since 25 May 1990
Mr. Abdul Qader Majid Abu Shawish	UNRWA	Detained in the occupied Gaza Strip since 27 May 1990
Mr. Salameh Salim Rihan	"	Detained in the occupied West Bank since 1 June 1990
Mr. Mahmoud Ahmad Murad	"	Detained in the occupied Gaza Strip since 2 June 1990
Mr. Zuhair Ahmad Abu Ashour	"	Detained in the occupied Gaza Strip since 11 June 1990
Mr. Mohammad Khalil Yousef El Bayed	"	Detained in the occupied West Bank since 11 June 1990

Name	Agency	Place and date of incident
Mr. Fadel Said Shalayel	UNRWA	Detained in the occupied Gaza Strip since 16 June 1990
Mr. Mohd. Fares Ibrahim Saqer	"	Detained in the occupied West Bank since 25 June 1990
Mr. Ibrahim Mohammad Abu Arqoub	"	Detained in the occupied West Bank since 27 June 1990
Mr. Ibrahim Ali Khaled Al Masri	"	Detained in the occupied West Bank since 30 June 1990